

REMARKS

Applicant thanks the Examiner for the careful consideration given to this application. Reconsideration is now respectfully requested in view of the amendments above and the following remarks.

Claims 1-15, 17-23 and 25-30 are pending in this application. Claims 1 and 15 are independent claims. Claims 1, 15 and 26-28 are amended; it is respectfully submitted that all amendments are supported by the specification as originally filed. Claim 24 was previously cancelled without prejudice or disclaimer, and Claim 16 is now cancelled without prejudice or disclaimer. New Claim 30 has been added; it is respectfully submitted that Claim 30 is supported at least by Claim 20 and its associated support. Reconsideration and allowance of the present application are respectfully requested.

Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that Claims 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim Rejections Under 35 U.S.C. §103

Claims 1-12, 14-19 and 25-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0092218 to Black (hereinafter "Black") in view of German Publication No. DE 4209105 A1 to Heister (hereinafter "Heister"). The rejection of Claim 16 is now moot in view of its cancellation. This rejection is respectfully traversed with respect to the other rejected claims for at least the following reasons.

Independent Claim 1 recites, "A sports net, including a mesh structure formed by a foil with permanently-open holes distributed over its surface, the net having an area ratio of holes to foil of 3:1 or more, wherein the sports net is adapted to be used in the playing of at least one sport." Independent Claim 15 recites, "A method for manufacturing a sports net, wherein a foil is made available in which permanently-open holes are made so that a net or mesh structure is formed; wherein the foil is printed on one or both sides before the holes are made; and wherein

the resulting foil is made into a sports net adapted to be used in playing at least one sport.” Applicant respectfully submits that the cited references fail to teach or suggest, either alone or in combination, all of the recited elements of at least these claims.

At page 2, the Office Action states, “Black discloses a sports net with advertising printed thereon and also having permanently-open holes distributed over its surface.” Office Action at 2. Applicant notes that the Office Action further refers to paragraph [0029] of Black to support a statement that “Black recognizes that nets can be manufactured having various mesh sizes and shapes, depending on the application and the strength needed.” Office Action at 2. Applicant notes that the only nets discussed in Black are “mesh nets” and “cord nets.” Black at paragraphs [0029]-[0030]. In view of this, Applicant agrees with the Office Action’s further statement, “Black does not explicitly describe a foil net;” in fact, Applicant respectfully submits that Black fails to either explicitly or implicitly recite a foil net. Black is limited to “mesh nets” and “cord nets.” Office Action at 2. The Office Action then states, “Heister teaches that advertising nets can also be made from transparent sheets of metal or plastic; such sheets are broadly considered to be foils.” Office Action at 2. Applicant respectfully submits that there are several problems with this rejection.

First, the Office Action has failed to provide any motivation to combine Heister with Black and has failed to state how Heister is to be combined with Black to obtain the claimed subject matter. Therefore, the Office Action fails to state a proper rejection, and if this rejection is repeated, Applicant respectfully requests a new, *non-final* Office Action with a complete statement of the rejections.

Second, Heister is altogether unrelated to nets of any type. On the contrary, Applicant observes that Heister merely discloses a sheet of flexible material having fine, evenly-distributed holes, and on which may be printed advertisements. See, e.g., Heister at abstract. In addition, therefore, to not being related to a “sports net” or any other kind of net, Heister fails to teach or suggest “an area ratio of holes to foil of 3:1 or more,” and appears, noting, e.g., Fig. 1, to teach a much smaller ratio (i.e., “fine, evenly-distributed holes”). Consequently, Applicant respectfully submits that Heister teaches away from use in a net, particularly one having “an area ratio of holes to foil of 3:1 or more,” as claimed, and further submits that even if one were to combine Heister’s teachings with those of Black, one would not obtain the claimed subject matter.

Applicant further notes that, in paragraph [0028], Black recites various types of uses and locations for the contemplated nets. See, e.g., Black at paragraphs [0010] and [0028]. However, all of these uses and locations appear to relate to “protection and loss prevention,” but not to “playing at least one sport,” as recited in the independent claims, as amended. Heister also fails to address this aspect of the claims.

Finally, Applicant notes that the Office Action states, “Regarding claims 25-28, the Black net as modified above is considered to be inherently capable of being used as recited.” Office Action at 3. Applicant respectfully disagrees. A net made for use in such protective functions may not be suitable, e.g., for use as a tennis or volleyball net, or as a goal net, and *vice versa*. Differences in functionality may generally correspond to differences in required characteristics of the net, such as the fineness of the mesh, strength, etc. Therefore, Applicant respectfully submits that such use is not inherent in Black’s net (as modified by the teachings of Heister).

For at least these reasons, Applicant respectfully submits that the cited references fail to support the rejection of Claims 1-12, 14, 15, 17-19 and 25-28.

Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Black in view of Heister in view of U.S. Patent No. 5,601,907 to Matsumoto (hereinafter “Matsumoto”). This rejection is respectfully traversed for at least the following reasons.

Applicant notes that Claim 13 depends from Claim 1. Hence, the above discussion also applies to Claim 13, and Applicant has found no teachings in Matsumoto that would remedy the above-mentioned deficiencies of the other cited references. Therefore, Applicant respectfully submits that the cited references, for at least the reasons discussed above, fail to support the rejection of Claim 13.

Therefore, Applicant respectfully requests that the rejections of Claims 1-15, 17-19 and 25-28 under 35 U.S.C. §103 be withdrawn.

Disclaimer

Applicant may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.

REMARKS

In view of the above, consideration and allowance are respectfully solicited.

In the event the Examiner believes an interview might serve in any way to advance the prosecution of this application, the undersigned is available at the telephone number noted below.

The Office is authorized to charge any necessary fees to Deposit Account No. 22-0185.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 22407-00040-US from which the undersigned is authorized to draw.

Dated: June 4, 2010

Respectfully submitted,

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